

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7356 of 2001

Between:

Sri Sarada High School, Rep. by its Secretary & Correspondent- K.C.Nagi Reddy,
S/o. Sri Pedda Rosi Reddy, P.W.D. Colony,
Pulivendla, Cuddapah District.

..... PETITIONER

AND

- 1 Government of Andhra Pradesh, Rep. by its Secretary,
Education Department, Secretariat Buildings, Hyderabad.
- 2 The Commissioner and Director of School Education,
Andhra Pradesh, Hyderabad.
- 3 The Regional Joint Director of School Education, Cuddapah.
- 4 The District Educational Officer, Cuddapah.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 and 2 in not admitting the posts of 2 SGBT teachers; 1 Record Assistant; 1 Craft Teacher and 1 P.E.T. to grant-in-aid inspite of favourable reports of the respondents 3 and 4, as illegal, improper, unjust and contrary to law and also declare Government Memo.No.1409/PS-3/2004-1, Education., dated 3-3-2004 and the consequential order of the second respondent in Rc.No.1162/B4-1/2001, dated 8-4-2004, as illegal and contrary to Act 22 of 1988 and further direct the respondents 1 and 2 to accord grant-in-aid in respect of the said posts for which a favourable report was submitted to the respondents 3 and 4.

Counsel for the Petitioner: MR.K.UMAPATHY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following:

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 7356 of 2001

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ORDER:

The writ petition is filed seeking to declare the action of the respondents 1 and 2 in not admitting the posts of two SGBT Teachers, one Record Assistant, one Craft Teacher and one P.E.T. of the petitioner-school to grant-in-aid in spite of the recommendations of respondents 3 and 4 as illegal and arbitrary.

The brief facts that are necessary for the disposal of this case are as follows:

The petitioner-school was admitted into grant-in-aid in respect of certain posts. Thereafter in the year 1993 the Regional Joint Director of School Education, Cuddapah sanctioned two unaided SGBT posts to the petitioner-school. Thereafter the Commissioner and Director of School Education, 2nd respondent herein, in his proceedings dated 17.11.1987 sanctioned one unaided post of Record Assistant to the petitioner-school. So also, vide proceedings dated 11.12.1995 the 2nd respondent sanctioned one Craft and One P.E.T. (unaided) posts to the petitioner-school. As a

matter of fact, the management of the petitioner-school in pursuance of the sanctioned unaided posts, appointed certain persons and those persons have been continuing in service and the salaries are being paid to them by the Management. The 4th respondent is the competent authority to recommend for grant of grant-in-aid in respect of the said posts. The 3rd respondent in his proceedings dated 4.10.1998 requested the 2nd respondent to admit 5 posts into grant-in-aid but no action has been taken. Hence the present writ petition.

No counter has been filed by the respondents.

Learned counsel for the petitioner contended that in pursuance of the directions given by this court in WPMP 9243 of 2001 dated 18.4.2001, the 2nd respondent issued proceedings dated 8.4.2004 rejecting the proposals of the Regional Joint Director on the sole ground that Act 22 of 1988 would come in the way of High Level Committee and hence he prays to remit the matter for reconsideration by the High Level Committee.

Learned Government Pleader for Higher Education contended that the High Level Committee has to take appropriate decision in accordance with the rules and regulations.

The proceedings of the 2nd respondent dated 8.4.2004 reads as follows:

“The matter has been placed before the High Level Committee on 20.12.2003 and the committee has observed that the school is established during the year 1984-85 as an High School by opening of Class-VIII and it was admitted to grant-in-aid during the year 1990 and the additional posts/sections are sanctioned after 1.9.1985 are not eligible for admission into grant-in-aid as per Act 22/88 and the same was submitted to Government for issue their orders in the matter”.

A perusal of the above proceedings shows that certain posts in the petitioner-school are not eligible for admission into grant-in-aid as per Act 22/88 of the A.P. Private Institutions Grant-in-Aid (Regulation) Act, 1988. Learned counsel for the petitioner also brought to the notice of this court Section 3 of the said Act, which reads as follows:

“Sec.3. Regulation of grant-in-aid to private educational institutions:-- (1) Notwithstanding anything contained in G.O.Ms.No.238, Education (SSE) Department, dated the 27th May, 1986 and G.O.Ms.No.42, Education (CE) Department, dated the 19th September, 1985,--

- a. no private educational institution other than a college established after the 1st April, 1977 and existing on the 1st September, 1985 and no private college established after the 1st April, 1977 and existing on the 1st March, 1985 shall be entitled to receive any grant-in-aid (unless the Committee concerned constituted in G.O.Rt.No.220, Education (SSE-I) Department, dated the 24th February, 1988 as modified in G.O.Rt.No.124, Education (SSE-I) Department, dated the 27th January, 1989 and the Government Memo No.245/SSE-I/89-1, Education Department, dated the 9th February, 1989 recommends that it may be admitted to grant-in-aid”.

A perusal of the above section makes it clear that no private educational institution established after 1st April 1977 shall be entitled to receive grant-in-aid unless the High Level Committee

recommends that such educational institution may be admitted into grant-in-aid. Therefore, the above provision has no bar for considering the case of the petitioner-school for admitting certain posts into grant-in-aid, if they are otherwise entitled. So, this aspect of the case has not been properly dealt with or considered by the High Level Committee. Section 3 of the Act is not a bar for the High Level Committee to consider the case of the petitioner in pursuance of the recommendations made by 3rd and 4th respondents. Appropriate decision has to be taken by the High Level Committee whether to admit certain posts of the petitioner-school into grant-in-aid or not.

Therefore, the impugned order dated 8.4.2004 is set aside directing the 1st and 2nd respondent to place the matter before the High Level Committee and the High Level Committee shall take appropriate decision in accordance with the rules within eight weeks thereafter.

The writ petition is disposed of accordingly.

K.C. Bhanu, J.

Date: 06—06—2005.

MVB.

To

- 1 The Secretary, Government of Andhra Pradesh,
Education Department, Secretariat Buildings, Hyderabad.
- 2 The Commissioner and Director of School Education,
Andhra Pradesh, Hyderabad.
- 3 The Regional Joint Director of School Education, Cuddapah.
- 4 The District Educational Officer, Cuddapah.
5. 2 CCs to G.P. for School Education, High Court Buildings, Hyderabad (OUT)
6. 2 C.D. copies.